

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.563 CHILD SUPPORT ENFORCEMENT

I. PROGRAM OBJECTIVES

The objectives of the Child Support Enforcement programs are to: (1) enforce support obligations owed by non-custodial parents, (2) locate absent parents, (3) establish paternity, and (4) obtain child and spousal support.

II. PROGRAM PROCEDURES

Administration and Services

The Child Support Enforcement programs are administered at the Federal level by the Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Under the State Child Support Enforcement program (State program), funding is provided to the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, based on a State plan and amendments, as required by changes in statutes, rules, regulations, interpretations, and court decisions, submitted to and approved by OCSE. Under the Tribal Child Support Enforcement program (tribal program), funding is provided to federally recognized tribes and tribal organizations based on applications, plans, and amendments, as required by changes in statutes, rules, regulations, and interpretations, submitted to and approved by the ACF Central Office.

The State program is an open-ended entitlement program that allows the State to be funded at a specified percentage, Federal financial participation (FFP), for eligible program costs. Under the tribal program, tribes receive funding for a specified percentage of program costs.

State child support agencies are required to conduct self-reviews of their programs. The first round of self-assessments was required to be completed by March 31, 1999 (42 USC 654(15) and 45 CFR part 308).

Source of Governing Requirements

The Child Support Enforcement programs are authorized under Title IV-D of the Social Security Act, as amended. This includes amendments as the result of the Deficit Reduction Act of 2005 (DRA) (Pub. L. No. 109-171). The State program is codified at 42 USC 651 through 669. Implementing program regulations for the State program are published at 45 CFR parts 301 through 308. In addition, with regard to eligibility and other provisions, these programs are closely related to programs authorized under other titles of the Social Security Act, including the Temporary Assistance for Needy Families (TANF) program (CFDA 93.558), the Medicaid program (CFDA 93.778), and the Foster Care (Title IV-E) program (CFDA 93.658).

The tribal program is authorized under Title IV-D of the Social Security Act, as amended, at 42 USC 655. Implementing program regulations are published at 45 CFR part 309 (*Federal Register*, March 30, 2004, 69 FR 16639). These regulations are available at <http://www.acf.hhs.gov/programs/cse/pol/AT/2004/at-04-01a.pdf>.

Awards made under the State program with funding periods beginning on or after October 1, 2003, are subject to the HHS implementation of the A-102 Common Rule, 45 CFR part 92 (*Federal Register*, September 8, 2003, 68 FR 52843-52844). The State program also is subject to 45 CFR part 95. The tribal program is subject to the administrative requirements of 45 CFR part 92 (45 CFR part 309). Both programs are subject to the cost principles under Office of Management and Budget Circular A-87 (as provided in *Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government*, HHS Publication ASMB C-10, available on the Internet at <http://rates.psc.gov/fms/dca/asmb%20c-10.pdf>).

States and tribes are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-D and the approved State plan/tribal plan and application.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Consistent with the approved Title IV-D plan, allowable activities include the following. A more complete listing of allowable types of activities, with examples, as appropriate, is included at 45 CFR sections 304.20 through 304.22 for the State program and 45 CFR sections 309.145(a) through (o) for the tribal program.

a. *State and tribal programs*

- (1) Parent locator services for eligible individuals (45 CFR sections 304.20(a)(2), 304.20(b), and 302.35(c); 45 CFR section 309.145).
- (2) Paternity and support services for eligible individuals (45 CFR section 304.20(a)(3); 45 CFR sections 309.145(b) and (c)).
- (3) Program administration, including establishment and administration of the State plan/tribal plan, purchase of equipment, and development of a cost allocation system and other systems necessary for fiscal and program accountability (45 CFR sections 304.20(b)(1) and 304.24; 45 CFR sections 309.145(a)(1) and (a)(2), 309.145(h), 309.145(i), and 309.145(o)).

- (4) Establishment of agreements with other State, tribal, and local agencies and private providers, including the costs of cooperative arrangements with appropriate courts and law enforcement officials in accordance with the requirements of 45 CFR section 302.34, including associated administration and short-term training of staff (45 CFR section 304.21(a); 45 CFR sections 309.145(a)(3)(iii) and 309.145(m)).

b. *State programs only*

Necessary expenditures for support enforcement services and activities provided to individuals from whom an assignment of support rights (as defined in 45 CFR section 301.1) is obtained (45 CFR sections 304.20, 304.21, and 304.22).

c. *Tribal programs*

- (1) The portion of salaries and expenses of a tribe's chief executive and staff that is directly attributable to managing and operating a tribal IV-D program (45 CFR section 309.145(j)).
- (2) The portion of salaries and expenses of tribunals and staff that is directly related to required Tribal IV-D program activities (45 CFR section 309.145(k)).
- (3) Service of process (45 CFR section 309.145(l)).
- (4) Costs associated with obtaining technical assistance from non-Federal third-party sources, including other Tribes Tribal organizations, State agencies, and private organizations, that are directly related to operating a IV-D program, and costs associated with providing such technical assistance to public entities (45 CFR section 309.145(n)).

2. *Activities Unallowed*

a. *State and tribal programs*

The following costs and activities are unallowable pursuant to 45 CFR section 304.23 and 45 CFR section 309.155:

- (1) Activities related to administering other titles of the Social Security Act.
- (2) Construction and major renovations.
- (3) Any expenditures that have been reimbursed by fees or costs collected.

- (4) Any expenditures for jailing of parents in child support enforcement cases.
- (5) Costs of counsel for indigent defendants in IV-D actions.
- (6) Costs of guardians *ad litem* in IV-D actions.

b. *State programs*

The following costs and activities are unallowable pursuant to 45 CFR section 304.23:

- (1) Education and training programs other than those for Title IV-D agency staff or as described in 45 CFR section 304.20(b)(2)(viii).
- (2) Any expenditures related to carrying out an agreement under 45 CFR section 303.15.
- (3) Any costs of caseworkers (45 CFR section 303.20(e)).
- (4) Medical support enforcement activities performed under cooperative arrangements/agreements (45 CFR sections 303.30 and 303.31).
- (5) The following costs associated with cooperative arrangements with courts and law enforcement officials are unallowable: service of process and court filing fees unless the court or law enforcement agency would normally be required to pay the costs of such fees; costs of compensation (salary and fringe benefits) of judges; costs of training and travel related to the judicial determination process incurred by judges; office-related costs, such as space, equipment, furnishings and supplies incurred by judges; compensation (salary and fringe benefits), travel and training, and office-related costs incurred by administrative and support staffs of judges; and costs of cooperative agreements that do not meet the requirements of 45 CFR section 303.107 (45 CFR section 304.21(b)).

E. Eligibility

1. Eligibility for Individuals

Eligible recipients are: (a) individuals applying for or receiving TANF benefits for whom an assignment of child support rights has been made to the State; (b) non-TANF Medicaid recipients; (c) former Aid to Families with Dependent Children/TANF, Title IV-E, or Medicaid recipients who continue to receive child support enforcement services without filing an application; (d) individuals needing such services who have applied to a State child support enforcement agency; and (e) for tribal programs, anyone who applies for IV-D services

(42 USC 608(a)(3); 45 CFR sections 302.32(a) and 302.33(a); 45 CFR section 309.65(a)(2)).

2. **Eligibility for Group of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients** - Not Applicable

F. Equipment and Real Property Management

Under State programs, equipment that is capitalized or depreciated or is claimed in the period acquired and charged to more than one program is subject to 45 CFR section 95.707(b) in lieu of the requirements of the A-102 Common Rule (45 CFR section 95.707(b)).

G. Matching, Level of Effort, Earmarking

1. Matching

State programs

The Federal share of program costs related to determining paternity, including those related to the planning, design, development, installation and enhancement of the statewide computerized support enforcement system is 66 percent. For costs incurred on or before September 30, 2006, the Federal share of laboratory costs for determining paternity was 90 percent (42 USC 655(a)(1)(C) and (a)(2)(C); 45 CFR sections 304.20(c) and 304.30). Effective October 1, 2006, the Federal share of laboratory costs for determining paternity is 66 percent (DRA, Section 7308).

Tribal programs

The Federal share of program costs is 90 percent for the first 3 years and 80 percent thereafter. Unless waived by the Secretary, the tribe or tribal organization must provide the 10 percent and 20 percent share, respectively (45 CFR sections 309.130(c), (d), and (e)).

2. **Level of Effort** - Not Applicable
3. **Earmarking** - Not Applicable

H. Period of Availability of Federal Funds

- a. *State programs* - This program operates on a cash accounting basis and each year's funding and accounting is discrete; i.e., there is no carry-forward of unobligated funds. To be eligible for Federal funding, claims must be submitted to ACF within two years after the calendar quarter in which the State made the expenditure. This limitation does not apply to any claim for an adjustment to prior year costs or resulting from a court-ordered retroactive adjustment (45 CFR sections 95.7, 95.13, and 95.19).
- b. *Tribal programs* - A tribe or tribal organization must obligate its Federal Title IV-D grant funds no later than the last day of the funding period (equivalent to the Federal fiscal year) for which they were awarded ("obligation period") or the funds must be returned to ACF. Unless an extension is granted by ACF, valid obligations must be liquidated no later than the last day of the 12-month period immediately following the obligation period or the funds must be returned to ACF (45 CFR sections 309.135(b), (c), and (e)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable for tribal programs; not applicable for State programs.
- b. SF-270, *Request for Advance or Reimbursement* - Applicable for tribal programs; not applicable for State programs.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable.
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PSC-272 series of reports.
- e. OCSE 34A, *Child Support Enforcement Program Quarterly Report of Collections (State programs - OMB No. 0970-0181; tribal programs - OMB No. 0970-0218)*.
- f. OCSE 396A, *Child Support Enforcement Program Quarterly Report of Expenditures and Estimates (OMB No. 0970-0181)* - Applicable for State programs only.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Establishment of Paternity and Support Obligations

Compliance Requirement - The IV-D agency must attempt to establish paternity and a support obligation for children born out of wedlock. The agency must establish a support obligation when paternity is not an issue. These services must be provided for any child in cases referred to the IV-D agency or to individuals applying for services under 45 CFR section 302.33 or 45 CFR section 309.65(a)(2) for whom paternity or a support obligation had not been established (45 CFR sections 303.4 and 303.5, 45 CFR sections 309.100 and 309.105). For State IV-D agencies, these services must be provided within the time frames specified in 45 CFR sections 303.3(b)(3) and (b)(5), 303.3(c) and, 303.4(d).

Audit Objective - Determine whether the IV-D agency attempted to establish, or established, paternity and a support obligation. For State IV-D agencies, determine whether these actions were within the required time frames.

Suggested Audit Procedures

- a. Review the agency's procedures for tracking case referrals for the provision of paternity and support obligation services and the type of documentation maintained that these services were provided or attempted.
- b. Test a sample of cases referred to the agency during the audit period to ascertain if:
 - (1) For cases involving a child born out of wedlock, the agency established or attempted to establish paternity.
 - (2) For all cases reviewed, the agency established or attempted to establish a support obligation.
 - (3) For State IV-D cases,
 - (a) The State achieved a successful outcome (i.e., an order was established within the review period). If so, the case was eligible for closure and time frames need not be evaluated, as provided in 45 CFR section 308.2(b)(1).
 - (b) Paternity and support obligation services were provided within the required time frames.

2. Enforcement of Support Obligations

Compliance Requirements - For all cases referred to the IV-D agency or applying for services under 45 CFR section 302.33 or 45 CFR section 309.65(a)(2) in which an obligation to support and the amount of the obligation has been established, the agency must maintain a system for (a) monitoring compliance with the support obligation; (b) identifying on the date the parent fails to make payments in an amount equal to support payable for one month, or an earlier date in accordance with State or tribal law, those cases in which there is a failure to comply with the support obligation; and (c) enforcing the obligation. To enforce the obligation the agency must initiate income withholding, if required by and in accordance with 45 CFR section 303.100 or 45 CFR section 309.110. State IV-D agencies must initiate any other enforcement action, unless service of process is necessary, within 30 calendar days of identification of the delinquency or other support-related noncompliance, or location of the absent parent, whichever occurs later. If service of process is necessary, service must be completed and enforcement action taken within 60 calendar days of identification of the delinquency or other noncompliance, or the location of the absent parent whichever occurs later. If service of process is unsuccessful, unsuccessful attempts must be documented and meet the State's guidelines defining diligent efforts. If enforcement attempts are unsuccessful, the State IV-D agency should determine when it would be appropriate to take an enforcement action in the future and take it at that time (45 CFR section 303.6). Optional enforcement techniques available for use by the State's are found at 45 CFR sections 303.71, 303.73, and 303.104.

Audit Objectives - Determine whether the IV-D agency monitored and, when necessary, enforced cases with support obligations. For State IV-D agencies, determine if actions were taken within required time frames.

Suggested Audit Procedures

- a. Review the agency's procedures for tracking case referrals and identifying those cases where an obligation to support has been ordered and the amount of the support obligation has been established.
- b. Test a sample of cases where an obligation to support had been ordered to ascertain that the agency monitored such cases, and, for State IV-D agencies, identified those cases requiring enforcement within the required time frame.
- c. For selected cases identified as requiring enforcement by a State IV-D agency, verify that enforcement action was initiated within the required time frame. Ascertain if a collection resulting from an enforcement action was received. If so, no further audit procedures are necessary. If a collection was not received:
 - (1) Ascertain if use of income withholding was appropriate. If so, verify that it was initiated within required time frame.
 - (2) If income withholding was not appropriate and/or was not successful, ascertain if the agency scheduled and took another enforcement action.

- d. If a service of process was necessary, but unsuccessful, verify that unsuccessful attempts were documented and met the diligent effort standard under the agency's diligent effort definition.

3. Securing and Enforcing Medical Support Obligations – State Programs

Compliance Requirements - The State IV-D agency must attempt to secure medical support information, and establish and enforce medical support obligations for all individuals eligible for services under 45 CFR section 302.33. Specifically, the State IV-D agency must determine whether the custodial parent and child have satisfactory health insurance other than Medicaid. If not, the agency must petition the court or administrative authority to include medical support in the form of health insurance coverage and/or cash medical support in all new or modified orders for support to be provided by either or both parents. The agency is also required to establish written criteria to identify cases not included above, where there is a high potential for obtaining medical support based on: (a) available evidence that health insurance may be available to either or both parents at reasonable cost, and (b) facts (as defined by the State) which are sufficient to warrant modification of an existing support order to include health insurance coverage for a dependent child(ren). For cases meeting the established criteria, the agency shall petition the court or administrative authority to modify support orders to include medical support in the form of health insurance coverage and/or payment for medical expenses incurred on behalf of the child (45 CFR sections 303.31(b)(1)-(4) and DRA, Section 7307).

For non-TANF cases, the agency shall petition for medical support when the eligible individual is a Medicaid recipient or with consent of the individual if not a Medicaid recipient (45 CFR section 303.31(c)).

In cases where medical support is ordered, the agency is required to verify that it was obtained. If it was not obtained, the agency should take steps to enforce the health insurance coverage required by the support order, unless it determines that health insurance was not available to either or both parents at reasonable cost (45 CFR section 303.31(b)(7) and DRA, Section 7307).

The agency shall inform the Medicaid agency when a new or modified order for child support includes medical support and shall provide information to the custodial parent concerning the health insurance policy secured under any order (45 CFR sections 303.31(b)(5) and (6)).

The medical support provisions outlined in DRA, Section 7307 have an effective date of October 1, 2006. In the case where the Secretary of HHS determines that State legislation is required to meet any of the requirements imposed by Subtitle C of Title VII of the DRA, the effective date shall be 3 months after the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that began after the date of the enactment of the DRA (February 8, 2006). For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

Audit Objective - Determine whether the State IV-D agency petitioned for and secured or pursued enforcement of medical support in the form of health insurance and/or cash medical support as part of support orders and informed the Medicaid agency and custodial parent as required.

Suggested Audit Procedures

- a. Test a sample of cases determined eligible during the audit period for services under 45 CFR section 302.33 to ascertain if the agency determined whether the custodial parent had satisfactory health insurance other than Medicaid.
- b. For those selected cases where the custodial parent and child do not have satisfactory health insurance other than Medicaid, verify that the agency petitioned the court or administrative authority for health insurance coverage and/or cash medical support when required.
- c. For selected cases where medical support was ordered, ascertain that the agency verified that medical support was obtained by the obligated parent. If medical support was not obtained by the obligated parent, ascertain if the agency either made a determination that health insurance was not available at a reasonable cost or took action to enforce and obtain the medical support.
- d. For selected cases where the obligated parent had health insurance or when health insurance was obtained by the agency, ascertain if there is documentation that the Medicaid agency and the custodial parent were informed.

4. Provision of Child Support Services for Interstate Cases – State Programs

Compliance Requirements - The State IV-D agency must provide the appropriate child support services needed for interstate cases (cases in which the child and custodial parent live in one State and the responsible relative lives in another State), establish an interstate central registry responsible for receiving, distributing and responding to inquiries on all incoming interstate IV-D cases, and meet required time frames pertaining to provision of interstate services. The case requiring action may be an initiating interstate case (a case sent to another State to take action on the initiating State's behalf) or a responding interstate case (a request by another State to provide child support services or information only). Specific time frame requirements for responding and initiating interstate cases are at 45 CFR sections 303.7(a) and 303.7(b)(2), (4), (5) and (6), respectively (45 CFR sections 302.36 and 303.7).

Audit Objective - Determine whether the State IV-D agency provided required child support services to interstate cases within the required time frames.

Suggested Audit Procedures

- a. Review the agency's interstate central registry and ascertain the procedures for receiving, distributing, and responding to all incoming interstate claim cases.

- b. Test a sample of initiating interstate cases to verify that required information was provided to the responding State within required time frames.
- c. Test a sample of responding interstate cases to verify that required child support enforcement services were provided within the time frames for providing information.